



## OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

*Superseded By  
Art. 29d V.C.S.*

Honorable C. J. Wilde  
County Auditor  
Nueces County  
Corpus Christi, Texas

Dear Sir:

Opinion No. 0-2546

Re: On what basis could an officer's salary be paid in Nueces County after the 1940 Federal Census becomes official?

Your recent request for an opinion of this department on the above stated question has been received.

We quote from your letter as follows:

"In the 1930 census, Nueces County showed a population of 51,779. The semi-official census for 1940 is approximately 93,000. In view of the above we desire to get some information concerning the change in the status for the following:

"Article 3912e, Section 13, is quoted in part herewith:

"And provided that in counties having a population of thirty-seven thousand five hundred (37,500) and less than sixty thousand (60,000) according to the last preceding Federal Census, and having an assessed valuation in excess of twenty million (20,000,000.00) Dollars, according to the last preceding approved tax roll of such county, the maximum amount allowed such officers as salaries, may be increased one (1%) per cent for each one million (\$1,000,000.00) dollars

valuation or fractional part thereof, in excess of said Twenty Million (\$20,000,000.00) Dollars valuation over and above the maximum amount allowed such officer under laws existing on August 24, 1935.'

"Inasmuch as Nueces County due to an increase in population steps out of the class mentioned in the above quotation, this office would like to know on what basis a Fee Officer's Salary could be paid after the census had become official. The valuation of Nueces County for 1939 and also 1940 will be in excess of \$64,000,000.00, however, in view of the fact that the population will be approximately 93,000, could we after December 31 pay salaries on the same basis as in the year 1940 until some official action had been taken by the Legislature in the form of an Amendment to the Article mentioned hereinabove."

Section 13 of Article 3912e, Vernon's Annotated Civil Statutes, reads in part as follows:

"The commissioners' court in counties having a population of twenty thousand (20,000) inhabitants or more, and less than one hundred and ninety thousand (190,000) inhabitants according to the last preceding Federal Census, is hereby authorized and it shall be its duty to fix the salaries of all the following named officers, to-wit: sheriff, assessor and collector of taxes, county judge, county attorney, including criminal district attorneys and county attorneys who perform the duties of district attorneys, district clerk, county clerk, treasurer, hide and animal inspector. Each of said officers shall be paid in money an annual salary in twelve (12) equal installments of not less than the total sum earned as compensation by him in his official capacity for the fiscal year 1935, and not more than the maximum amount allowed such officer under laws existing on August 24, 1935; provided that in counties having a population of twenty thousand (20,000) and less than thirty-seven thousand five hundred

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(37,500) according to the last preceding Federal Census, and having an assessed valuation in excess of Fifteen Million (\$15,000,000.00) Dollars, according to the last approved preceding tax roll of such county the maximum amount allowed such officers as salaries may be increased one (1%) per cent for each One Million (\$1,000,000.00) Dollars valuation or fractional part thereof, in excess of said Fifteen Million (\$15,000,000.00) Dollars valuation over and above the maximum amount allowed such officers under laws existing on August 24, 1935; and provided that in counties having a population of thirty-seven thousand five hundred (37,500) and less than sixty thousand (60,000) according to the last preceding Federal Census, and having an assessed valuation in excess of Twenty Million (\$20,000,000.00) Dollars, according to the last preceding approved tax roll of such county, the maximum amount allowed such officers as salaries, may be increased one (1%) per cent for each One Million (\$1,000,000.00) Dollars valuation or fractional part thereof, in excess of said Twenty Million (\$20,000,000.00) Dollars valuation over and above the maximum amount allowed such officer under laws existing on August 24, 1935."

According to the 1930 Federal Census, Nueces County was among those counties having a population of thirty-seven thousand, five hundred (37,500) and less than sixty thousand (60,000) inhabitants, and had an assessed property valuation in excess of twenty million dollars (\$20,000,000.00), according to the preceding approved tax rolls of the county. Therefore, the above quoted portion of Section 13, Article 3912e, supra, was applicable to Nueces County, which provided that the maximum allowed such officer as salaries might be increased one (1%) per cent for each one million dollars (\$1,000,000.00) valuation, or fractional part thereof, in excess of said twenty million dollars (\$20,000,000.00) valuation over and above the maximum allowed such officers under laws existing on August 24, 1935.

If the report of the 1940 Federal Census is officially made before January 1, 1941, and said report shows that Nueces

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County has a population in excess of sixty thousand (60,000) inhabitants, then the above quoted portion of Section 13, Article 3912e, supra, which permits officers' salaries to be increased one per cent (1%) for each one million (\$1,000,000.00) Dollars valuation, or fractional part thereof in excess of said twenty million (\$20,000,000.00) dollars valuation over and above the maximum amount allowed such officers under laws existing on August 24, 1935, will not be applicable to Nueces County. It is our further opinion that Nueces County could not legally pay officers' salaries for the year 1941 on the same basis as in the year 1940, which were paid under the above quoted section of Article 3912e; provided, as above stated, the results of the 1940 Census are officially made by the director of the Census before January 1, 1941, and that the officers who are compensated on an annual salary basis should be paid in money in 1941, an annual salary in twelve equal monthly installments of not less than the total sum earned as compensation by them in their official capacity for the fiscal year 1935 and not more than the maximum amount allowed such officers under laws existing August 24, 1935.

Trusting that the foregoing fully answers your inquiry, we remain

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

*Ardell Williams*

Ardell Williams  
Assistant

APPROVED AUG 5, 1940

*[Signature]*  
ASSISTANT  
ATTORNEY GENERAL

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